



DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

31 CFR Part 601

Distinctive Paper and Distinctive Counterfeit Deterrents for United States Federal Reserve

Notes

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking would update the description of the distinctive paper and distinctive counterfeit deterrents used to guard against counterfeit and fraudulently altered United States (U.S.) Federal Reserve notes in accordance with the U.S. Code. The Department of the Treasury, Bureau of Engraving and Printing (BEP) is amending its distinctive paper and distinctive counterfeit deterrents regulation to remove obsolete language to align the regulation to the current state-of-art and emerging technologies generated as a result of BEP's research and development initiatives; clarify the agency's authority for adopting distinctive paper and distinctive counterfeits deterrents; and announce the adoption of new distinctive paper and counterfeit deterrents by the Secretary of the Treasury.

DATES: Comments must be received no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit comments regarding this notice of proposed rulemaking according to the instructions below. BEP encourages the early submission of comments. Comments may be submitted through one of these methods:

- *Electronic Submission:* Please submit comments electronically through the Federal eRulemaking Portal: <https://www.regulations.gov>. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables BEP to make them available to the public. Comments submitted

electronically through the <http://www.regulations.gov> web site can be viewed by other commenters and interested members of the public. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. You should submit only information that you wish to make available publicly.

- *Postal Mail Submission:* Comments may be sent to the Office of the Chief Counsel, United States Department of the Treasury, Bureau of Engraving and Printing, 14th and C Streets SW, Washington, DC 20228, Room 419-A, Attention: Leslie J. Rivera Pagán, Amendments to 31 CFR part 601. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically.

FOR FURTHER INFORMATION CONTACT: Leslie J. Rivera Pagán, Attorney-Advisor, Office of Chief Counsel, U.S. Department of the Treasury, Bureau of Engraving and Printing, Room 419A, 14th & C Streets SW, Washington, DC 20028, phone at (202) 874-2500 or fax (202) 874 - 2951.

SUPPLEMENTARY INFORMATION:

I. Background

The BEP regulation appearing at 31 CFR part 601 relates to the distinctive paper and distinctive counterfeit deterrents used to guard against counterfeit and fraudulently altered U.S. Federal Reserve notes. The last amendment to 31 CFR part 601 was on March 18, 1996. Since then, BEP has engaged in research and development resulting in modification of its distinctive paper and distinctive counterfeit deterrents, thus necessitating revision of the entire regulation.

The U.S. Congress, which has power under the U.S. Constitution to coin money and regulate the value thereof, has delegated to the Secretary of the Treasury (“Secretary”) exclusive authority to determine the form and tenor of U.S. Federal Reserve notes. Accordingly, the Secretary may adopt and examine plates, dies, bed pieces, and other materials used to print U.S.

Federal Reserve notes and issue regulations relating to such examination. The Secretary may also prescribe regulations that the Secretary considers best calculated to promote the public convenience and security, and to protect the U.S. Government and individuals from fraud and loss that apply to anyone who may receive on behalf of the U.S. Government, Treasury notes, United States notes, or other Government securities. Additionally, the Secretary has the authority to adopt any distinctive paper and distinctive counterfeit deterrents for U.S. Federal Reserve notes in the best manner to guard against counterfeits and fraudulent alterations.

The BEP mission is to develop and manufacture U.S. Federal Reserve notes that are trusted worldwide. The Secretary has delegated specific authority and responsibilities related to the production of U.S. Federal Reserve notes to the Director of BEP only. (Treasury Order 101-07, Delegation to the Director, Bureau of Engraving and Printing, for the Production of Currency Notes to Meet the Demands of the Federal Reserve Banks, January 4, 2021.) BEP's Director may redelegate the authority and responsibility to a BEP Associate Director only.

This proposed rule would update BEP's 1996 (61 FR 10895) regulation concerning the distinctive paper and distinctive counterfeit deterrents BEP intends to use to produce the next generations of U.S. Federal Reserve notes to guard against counterfeits and fraudulent alterations. The proposed revision would clarify the description of the distinctive paper and distinctive counterfeit deterrents separately for U.S. Federal Reserve notes, remove obsolete language, align the regulation to the current state-of-art and emerging technologies generated as a result of BEP's research and development initiatives, clarify the agency's authority for adopting distinctive paper and distinctive counterfeits deterrents, and announce the adoption of new distinctive paper and counterfeit deterrents by the Secretary.

II. Procedural Analyses

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) requires agencies to prepare an initial regulatory flexibility analysis (IRFA) to determine the economic impact of the rule on

small entities. A small entity is defined as either a small business, a small organization, or a small governmental jurisdiction; an individual is not a small entity. Section 605(b) of the RFA allows an agency to prepare a certification instead of an IRFA if the rule does not have a significant economic impact on a substantial number of small entities. Pursuant to 5 U.S.C. 605(b), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The proposed rule is limited to updating the description of the distinctive paper and distinctive counterfeit deterrents used to guard against counterfeit and fraudulently altered United States (“U.S.”) Federal Reserve notes and other obligations and securities in accordance with the U.S. Code. Accordingly, if finalized, this proposed rule will have no direct impact on small entities. Notwithstanding this certification, BEP invites comments on this proposed rule’s impact, if any, on small entities.

B. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. BEP has determined this proposed rule relates to the agency organization and management, and therefore, Executive Orders 13563 and 12866 do not apply to this proposed rule. This proposed rule is not a “significant regulatory action” under Executive Order 12866.

C. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a rule that includes any federal mandate that may result in expenditures in any one year by a state, local, or tribal

government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. BEP certifies that no actions were deemed necessary under the Unfunded Mandates Reform Act of 1995. Furthermore, these proposed regulations will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and they will not significantly or uniquely affect small governments.

D. Federalism

Executive Order 13132 (titled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule has been reviewed under Executive Order 13132 and would not have federalism implications and or impose substantial direct effects on States, on the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government within the meaning of the Executive Order. Therefore, in accordance with Executive Order 13132, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

E. Paperwork Reduction Act (PRA) Notices

The Paperwork Reduction Act does not apply because this proposed rule would not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 31 CFR Part 601

Currency, Securities, Printing.

For the reasons stated in the preamble, BEP proposes to revise 31 CFR part 601 as follows:

**PART 601- DISTINCTIVE PAPER AND DISTINCTIVE COUNTERFEIT
DETERRENTS FOR UNITED STATES FEDERAL RESERVE NOTES**

Sec.

601.1 Notice and scope.

601.2 Distinctiveness requirement.

601.3 Distinctive paper.

601.4 Distinctive counterfeit deterrents.

601.5 Penalty for unauthorized control or possession.

Authority: 5 U.S.C. 301; 12 U.S.C. 418, 421; 18 U.S.C. 474A; 31 U.S.C. 321.

§ 601.1 Notice and scope.

The regulation in this part governs the distinctive paper and distinctive counterfeit deterrents adopted by the Secretary of the Treasury for United States Federal Reserve notes, which are subject to 18 U.S.C. 474A. The Director of Bureau of Engraving and Printing, by delegated authority, hereby gives notice of the distinctive paper and distinctive counterfeit deterrents adopted by the Secretary of the Treasury.

§ 601.2 Distinctiveness requirement.

(a) The Secretary of the Treasury has adopted distinctive paper and distinctive counterfeit deterrents:

- (1) In which the United States has an exclusive property interest; or
- (2) That are not otherwise in commercial use or the public domain and are necessary for preventing the counterfeiting of United States Federal Reserve notes.

(b) The distinctive paper and counterfeit deterrents are used in United States Federal Reserve notes.

§ 601.3 Distinctive paper.

The distinctive paper is a cream-white currency note paper with fibers, colored red and blue, evenly distributed throughout the currency note paper. The distinctive paper shall contain distinctive counterfeit deterrents in the currency note paper denominations prescribed by the Secretary of the Treasury.

§ 601.4 Distinctive counterfeit deterrents.

The distinctive counterfeit deterrents that may be used in the denominations of United States Federal Reserve notes as prescribed by the Secretary of the Treasury are:

- (a) Security threads containing graphics consisting of the designation “USA” and the denomination of the currency note, expressed in alphabetic or numeric characters.
- (b) Optically variable inks with material characteristics.
- (c) Non-visual characteristic inks with material characteristics.
- (d) Optically variable thread (three-dimensional (3-D) security ribbon and micro-optic stripe) visible in front or back of the currency note.
- (e) Non-visual characteristic features with material characteristics.

§ 601.5 Penalty for Unauthorized Control or Possession.

(a) Control or possession of distinctive paper and/or distinctive counterfeit deterrents adopted in §§ 601.3 and 601.4 require authorization by the Secretary of the Treasury.

(b) The penalty for unauthorized control and/or possession of distinctive paper and/or distinctive counterfeit deterrents adopted in §§ 601.3 and 601.4 is found at 18 U.S.C. 474A.

Leonard R. Olijar,

Director.